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BILL ANALYSIS

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Senate Bill 15 (Substitute S-1)
Sponsor: Senator Sam Singh
Committee: Regulatory Affairs

Date Completed: 2-7-25

CONTENT

The bill would amend the Earned Sick Time Act to do the following:

- **Expand the definition of "small business" from an employer that employed fewer than 10 individuals to an employer that employed fewer than 25 individuals.**
- **Allow a business to provide the Act's required sick time to employees at the beginning of the year, rather than throughout.**
- **Cap the amount of accrued sick time an employee could carry over from year to year under certain circumstances.**
- **Specify that the Act would apply to an employer that was a member of a multiemployer collective bargaining agreement under certain circumstances.**
- **Provide that an employer that was a member of a multiemployer collective bargaining agreement could not require a qualifying employee to wait 90 days before using accrued sick time if the qualifying employee also were employed by another member of the multiemployer collective bargaining agreement.**
- **Shorten, from three years to one year, the time frame that an employee may seek remedies for a violation of the Act.**
- **Delete a provision allowing an employee to bring a civil action against the employee's employer for appropriate relief due to a violation of the Act.**
- **Modify references to the Department of Licensing and Regulatory Affairs (LARA) to instead refer to the Department of Labor and Economic Opportunity (LEO).**
- **Provide that, if an employer failed to provide sick time to an employee as required, the employer would be subject to a civil fine of up to eight times the employee's normal hourly wage.**

The Earned Sick Time Act will take effect February 21, 2025. (For more information, see **BACKGROUND.**)

Sick Time

Generally, the Act requires an employer to provide an hour of earned sick time to each of its employees for every 30 hours worked.

Currently, "small business" means an employer for which fewer than 10 individuals work for compensation during a given week. In determining the number of individuals performing work for compensation during a given week, all individuals performing work for compensation on a full-time, part-time, or temporary basis must be counted, including individuals made available to work through the services of a temporary services or staffing agency or similar entity. An employer is not a small business if it maintains 10 or more employees on its payroll during any 20 or more calendar workweeks in either the current or the immediately preceding calendar year. The bill would expand the definition to include employers that employed fewer than 25 individuals.

The Act allows employers that are small businesses to limit an employee's annual sick time usage to 40 hours; however, if an employee accrues more than 40 hours of earned sick time in a calendar year, that employee may use an additional 32 hours of unpaid earned sick time at a minimum. An employer who is not a small business may limit an employee's paid sick time usage to 72 hours in a year. Employers may set higher limits than those provided by the Act.

The bill would allow an employer to provide employees with the respective 40 and 72 hours of earned sick time at the beginning of the year, rather than throughout the year.

Generally, earned sick time carries over from year to year. The bill would limit the amount of accrued sick time that could be carried over from year to year to 144 hours, unless the employer did either of the following:

- Paid the employee the value of the employee's unused sick time at the end of the year in which the sick time was earned.
- Selected a higher limit of hours of unused earned sick time that could be carried over.

Currently, if an employee's need for earned sick time is not foreseeable, an employer may require that employee to give notice of the intention to use sick time as soon as practicable. Under the bill, this requirement would have to be specified in a written policy of the employer. Additionally, the bill would exempt from this provision an employer that had mandated staffing ratios. Such an employer could require an employee to comply with the employer's leave policy if the employee's need were foreseeable.

Multiemployer Collective Bargaining Agreements

The bill would require an employer who was a member of a multiemployer collective bargaining agreement and who contributed to a multiemployer paid sick leave plan or a similar multiemployer fringe benefit fund plan to provide paid time off in at least the same amount required by the Act, accrued at a rate equal to or greater than the rate described, that could be used for the same purposes and under the same conditions under the Act. If a multiemployer collective bargaining agreement or other employment agreement met the following conditions, the Act would apply to the parties of a multiemployer collective bargaining agreement beginning on the date the agreement expired or was terminated, amended, extended, or renewed:

- The agreement was in effect on the effective date of the Act.
- The agreement conflicted with the Act's provisions.

The Act allows an employer to require an employee to wait for 90 days before the employee can use earned sick time; however, the bill would provide that an employer that was a member of a multiemployer collective bargaining agreement could not require a qualifying employee to wait 90 days before using accrued sick time if the qualifying employee also were employed by another member of the multiemployer collective bargaining agreement. "Qualifying employee" would mean an employee who meets both of the following conditions:

- Is employed by an employer that is a member of a multiemployer collective bargaining agreement and contributes to a multiemployer fringe benefit fund or similar fund.
- Has accrued leave time in accordance with the Act.

The bill would allow benefits accrued by a qualifying employee to be transferred between employers that contributed to the same multiemployer paid sick leave plan or similar multiemployer fringe benefit fund plan for that qualifying employee.

Violations of the Act

The Act protects employees' rights to take sick time, file a complaint, or inform any person of an employer violating the provisions of the Act, among others. The Act prohibits an employer from retaliating against an employee for exercising the employee's rights.

Currently, it may be presumed that a violation of the Act has occurred if an employer takes adverse personnel action against an employee within 90 days of that employee 1) informing any person of or filing a complaint alleging an employer's violation of the Act; 2) participating in an investigation; 3) opposing any prohibited policy, practice, or action; and 4) informing any person of that person's rights. The bill deletes this provision.

If an employer violates the Act, an employee affected by the violation, at any time within three years after the violation or the date when the employee knew of the violation, whichever is later, may seek remedies. The bill would decrease, from three years to one year, the time frame during which an individual may seek remedies.

Currently, an employee seeking remedies may bring a civil action against the employer for appropriate relief. The bill would delete this provision. Instead, an employee must file a claim with LARA), who must investigate the claim. The bill would modify reference to LARA to LEO.

An employer who fails to provide earned sick time as required or that takes retaliatory personnel action against an employee or former employee is subject to a civil fine of not more than \$1,000. The bill would specify this fine applies to each violation. The bill also would provide that, if an employer failed to provide sick time to an employee as required, the employer would be subject to a civil fine of up to eight times the employee's normal hourly wage.

MCL 408.962 et al.

BACKGROUND

In 2018, the Michigan Time to Care coalition began a petition drive to initiate a new law, the Earned Sick Time Act. The proposed legislation required small businesses (businesses with fewer than 10 employees) to provide 40 hours of sick time and other businesses to provide 72 hours of paid sick time. After gathering the required number of petitions, the coalition submitted the proposal to the Secretary of State for canvass by the Board of State Canvassers (the Board). The Board submitted the proposal to the Legislature, which adopted the Act without amendment as PA 338 of 2018. As a result, the Act was not submitted to voters for their approval during the 2018 midterm elections.

Following the elections, the Legislature enacted PA 369 of 2018, which amended the Act to exempt businesses with fewer than 50 employees from the requirement to provide their employees with paid sick time. It required employers with 50 or more employees to provide employees with 40 hours of paid sick time, not 72.

As a result, the Michigan Time to Care coalition brought an action in the Court of Claims against the State of Michigan. The plaintiffs alleged that it was unconstitutional for the Legislature to adopt and amend initiated legislation within the same legislative session (2017-2018). The State argued that the Constitution did not prevent the Legislature from doing so. The Court ruled in favor of the plaintiffs, stating that PA 369 was unconstitutional and void. As a result, PA 338 remained in effect. The Court of Appeals later reversed this decision; however, the Michigan Supreme Court (MSC) upheld the Court of Claims' original decision in July 2024. In accordance with PA 338's original effective date of 205 days after its enactment, the MSC determined that PA 338 will take effect February 21, 2025, 205 days after the MSC's final decision.

FISCAL IMPACT

The bill would have a negligible fiscal impact on State and local revenue beginning in Fiscal Year (FY) 2024-25. Changes that could potentially affect revenue only would relate to employees of firms with between 10 and 25 employees. Under the bill, if an employee received less leave time, needed the additional leave time, and opted to take leave without pay, the employee would receive less wages and thus report lower individual income tax liabilities. Similarly, in such situations, there would be an indeterminate but also likely negligible fiscal impact on business tax revenue; presumably, reduced leave time expenses would raise profitability (and thus tax liabilities) but also would reduce output (lowering business revenue and thus profitability).

The bill would have a one-time fiscal impact on LEO to implement the proposed changes. These costs would include administrative and information technology.

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